



ENDANGERED SPECIES TECHNICAL BULLETIN

Department of the Interior • U.S. Fish and Wildlife Service • Endangered Species Program, Washington, D.C. 20240

A Guide to Endangered Species Regulations

In this issue, the BULLETIN presents "A Guide to Endangered Species Regulations"—a special feature designed to enhance understanding of the regulations now in force to protect imperiled animals and plants at home and abroad. The guide covers all the requirements of both the Endangered Species Act of 1973 and U.S. regulations carrying out the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The guide starts on page 3.

FWS, NMFS Divide Sea Turtle Duties

The Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) have agreed by memorandum of understanding to divide program responsibilities covering sea turtles listed under the Endangered Species Act of 1973.

Henceforth, NMFS will have sole jurisdiction over sea turtles—including parts or products—when they are in a marine environment; i.e., in the oceans and seas, bays and estuaries, brackish water areas, and waters adjacent to nesting beaches. FWS will have sole jurisdiction when the turtles, including parts and products, are on land. These respective jurisdictions will apply to consultations involving compliance with the provisions of section 7 of the act.

The Federal Wildlife Permit Office of the FWS will serve as a central clearinghouse for both agencies in the processing of permit applications and certifications affecting sea turtles.

Currently, three sea turtles are listed as Endangered: the Atlantic ridley (*Lepidochelys kempi*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*). Three others have been proposed as Threatened: the green turtle (*Chelonia mydas*), loggerhead (*Caretta caretta*), and Pacific ridley (*Lepidochelys olivacea*).

The FWS and NMFS expect soon to propose certain Virgin Islands beaches and adjacent offshore areas as Critical Habitat for the leatherback.

Greenback Cutthroat Trout Returning; Change to Threatened Status Sought

The success of Federal and State agencies in restoring the greenback cutthroat trout (*Salmo clarki stomias*) has led the Service to propose changing the fish's protection category from Endangered to Threatened (F.R. 9/26/77).

Found only in Colorado, the fish was originally listed as Endangered under the Endangered Species Act of 1969, primarily because of extensive hybridization with introduced trout species and habitat alteration throughout its range. The Service believes this species should now be reclassified to the much improved Threatened status, as biological evidence indicates that the greenback cutthroat has made a significant comeback.

Greenback cutthroat trout populations have been located or reintroduced in several stretches of water within the fish's historic range in the headstreams of the South Platte and Arkansas river systems. Furthermore, there is a successful ongoing effort to eliminate introduced trout—especially rainbow trout and other subspecies of cutthroat trout—that could hybridize with the greenback cutthroat within its

present range.

The most recent reintroduction efforts took place at Bear Lake in Rocky Mountain National Park, where native greenback cutthroats were restocked after the successful removal of introduced trouts.

Nevertheless, introduction of non-native trout by fishermen continues to pose a threat to the subspecies, as does the natural destruction of barrier dams. In addition, although its habitat on public lands appears to be safe from degradation, habitat areas on private lands are still subject to the adverse effects of logging, mining, grazing, and water development projects.

While recognizing the continuing need for Federal protection as well as Critical Habitat determination for the subspecies, the Service also believes there is evidence that the greenback cutthroat trout may benefit from regulated taking through noncommercial fishing in certain areas. Accordingly, the Service has included within its proposed rulemaking a special regulation that would allow taking of the subspecies in accordance with Colorado State laws.

Comments on the proposed rulemaking are due by December 27, 1977.



U.S. Fish and Wildlife Service photo

Intensive conservation effort has enabled *Salmo clarki stomias* to make a significant comeback in Colorado

Rare Plant Data Symposium

The National Park Service and the New York Botanical Garden will sponsor a symposium in New York City November 15-17 under the title "Geographical Data Organization for Rare Plant Conservation."

Currently, a number of researchers are compiling quantities of biogeographical information on rare plants in data banks. The symposium will take up a representative selection of these diverse systems and discuss data priorities and data organization problems in various regions of the Nation. In addition, attendees will focus on the prospects for promoting information exchange and for coordinating data organization procedures among Federal, State, and regional parties.

For further information, contact Dr. Larry E. Morse, New York Botanical Garden, Bronx, New York 10458; (212-220-8658).

New Publications

The Biota of North America, Part 1: Vascular Plants, Vol. I: Rare Plants, by John T. and Rosemarie Kartesz, is now available. This volume, intended to serve as a liaison directory and compilation of information on rare plants, should also help States and North American

botanists promote and establish protective laws and species listings for these plants. (A similar volume on rare animals is now in preparation.) For more information on cost and availability, write to Mr. John T. Kartesz, Executive Director, Biota of North America Committee, 2202 Ridge Road, McKeesport, Pa. 15135.

The Arkansas Natural Heritage Commission has published a leaflet on "Arkansas Plants Nominated for Listing as Endangered." For copies, write Arkansas Natural Heritage Commission, Suite 500, Continental Bldg., Main & Markham, Little Rock, Arkansas 72201.

An *Annotated Checklist of Birds, Mammals, Reptiles and Amphibians of the Virgin Islands and Puerto Rico* has been compiled of 393 species from the seven geographic island areas by Richard Philibosian and John A. Yntema. For each listing, there is a designation of status, its breeding location, and seasonal patterns. Copies are available for \$2.00 postpaid, from Information Services, P.O. Box 305, Frederiksted, St. Croix, U.S. Virgin Islands 00840.

A summary of current knowledge on *Endangered and Threatened Plants of Idaho* has been published by the University of Idaho. For copies, contact the Forest, Wildlife and Range Experiment Station, Moscow, Idaho 83843.

ENDANGERED SPECIES SCIENTIFIC AUTHORITY

Notices—September 1977

The Endangered Species Scientific Authority (ESSA) is responsible for the biological review of applications to export or import species listed in Appendix I, and to export species listed in Appendix II, of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. Notices of ESSA's findings and other actions are published in the Federal Register. Summaries of these notices are reported in the BULLETIN by month of publication.

Pet Imports Discouraged By ESSA Policy Decision

The Endangered Species Scientific Authority (ESSA) has disapproved an application to import a pair of protected margays (*Felis wiedii*) which an American couple had purchased at a village market in Nicaragua and wanted to donate to a zoo in the United States.

In a statement, ESSA said the permit application for the zoo did not satisfy its recently developed policy covering the import of species, such as the Nicaraguan margay, which are listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The policy holds that imports of Appendix I animals and plants, which are threatened with extinction, generally will be allowed only for the following purposes: (1) essential scientific uses not detrimental to the survival of the species; (2) enhancement of the propagation or survival of the species; and (3) any bonafide scientific use of salvaged specimens, provided that the possibility of import neither directly nor indirectly contributed to the specimen's death or removal from the wild.

Import for other purposes will be disapproved unless the evidence establishes that import is in the best interest of the species.

Dr. William Y. Brown, executive secretary of ESSA, said people may buy wild pets while abroad because they are concerned about the well-being of the animals, not realizing that at the same time they are encouraging the collection of the animals for more sales as pets.

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Reference Note

All Service notices and proposed and final rulemakings are published in the *Federal Register* in full detail. The parenthetical references given in the BULLETIN—e.g., (F.R. 5/3/77)—list the month, day, and year that the notice or rulemaking was published in the *Federal Register*.

A Guide to Endangered Species Regulations

Federal and international laws and regulations are now fully in force to help ensure the continued survival of imperiled animals and plants in the United States and around the world.

Strict domestic regulations have been developed to protect jeopardized wildlife since passage of the Endangered Species Act of 1973. Regulations and permit procedures governing plants protected under the act took effect on July 25, 1977.

In May 1977, the United States published regulations to enforce the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The U.S. and nearly 40 other nations are party to the Convention, which has established procedures to control and monitor the import and export of imperiled species covered by the treaty.

The Endangered Species Act and the Convention share many similarities in that the protection they provide extends to species all over the world. However, it is important to point out that these separate measures—one domestic and the other international—employ different terminology, address separate (but overlapping) lists of protected species, and, in addition, serve somewhat different purposes.

Scope of the Convention

The primary function of the international Convention is to regulate international trade in the species it protects. Its rules apply only to import, export, and reexport. The rules do not apply, as part of an international instrument, to interstate shipments, to the "taking" (killing or capture) of species, or to the preservation of habitat.

Unlike many other treaties which gather dust on library shelves, the Convention is an active and forceful agreement whose member countries meet regularly to assess and improve its effectiveness. Convention rules are implemented in each country by a permit-issuing office (a management authority), which in turn is advised by a scientific authority.

U.S. Management Authority

By delegation of the Secretary of the Interior, the Convention's management authority in this country is the Federal Wildlife Permit Office of the Fish and Wildlife Service. In addition to acting as the official U.S. spokesman on all matters relating to the international Convention and coordinating U.S. implementation, the management authority receives and issues all Convention-required permits and certificates, consulting as necessary with other Federal and State agencies.

U.S. Scientific Authority

Established by Presidential order, the scientific authority for the U.S. is an autonomous committee of representatives of six Federal agencies (including the Department of the Interior) plus the Smithsonian Institution. Called the Endangered Species Scientific Authority (ESSA), it is chaired by the chief of the Office of Endangered Species of the Fish and Wildlife Service. Other agencies represented are the Departments of Agriculture; Health, Education and Welfare; and Commerce; the National Science Foundation; and the Council on Environmental Quality.

ESSA's primary responsibility is to establish biological criteria on which to

base findings for individual species protected by the Convention, so that it may advise the management authority on the issuance of appropriate U.S. export and import permits.

Other parties to the Convention are also establishing scientific and management authorities.

Scope of Endangered Species Act

The U.S. law is broader than the Convention in its application, and applies to all jeopardized species that warrant Federal protection—including those endangered by habitat destruction and many other things, whether or not they are of value in the commercial market. The act regulates the taking and capture of all listed animals, as well as interstate and foreign commerce in both animals and plants, and provides for land acquisition and financial assistance to States and foreign countries.

The Endangered Species Act is administered by the Secretary of the Interior, acting through the Director of the Fish and Wildlife Service and with the assistance of the Service's Endangered Species Office.

In the case of marine species, actions are taken in cooperation with the Secretary of Commerce, through the Director of the National Marine Fisheries Service. Similarly, in the area of import/export enforcement for Endangered plants, Interior cooperates with and is assisted by the Department of Agriculture through the Animal and Plant Health Inspection Service.

The following guide indicates the chief differences and similarities between the 1973 act and the Convention. The listing processes, prohibitions, and permit procedures are presented side by side for comparative purposes.

Endangered Species Act Regulations

While the Convention addresses species that are (or may be) affected by trade in sufficient volume as to be a potential threat to their survival, the Endangered Species Act provides protection to any species threatened by any of the following factors:

1. The present or threatened destruction, modification, or curtailment of the species' habitat or range.
2. Overutilization for commercial, sporting, scientific, or educational purposes.
3. Disease or predation.
4. The inadequacy of existing regulatory mechanisms.
5. Other natural or man-made factors affecting its continued existence.

Two listing classifications are provided:

- **Endangered**—any species which is in danger of extinction throughout all or a significant portion of its range.
- **Threatened**—any species which is likely to become "Endangered" within the foreseeable future through all or a significant portion of its range.

Convention Regulations

The Convention approaches the protection of species from the standpoint of how trade (import-export) would affect the status of a particular species in the wild in its native country. The scope of the Convention extends to animals and plants, terrestrial or marine.

Generally, the destruction of habitat by human development is the major cause of the decline and extinction of animals and plants. But international trade can be an important factor in the decline of some species, if it promotes overhunting for fur or hides, for food products, for pets, for exhibition, for sport, for scientific experimentation, or for other purposes. Plants can be jeopardized by overcollecting for private or commercial purposes. When an overcollected species is imported or exported, it may be eligible for protection under the Convention.

Accordingly, the Convention recognizes that controls are essential now for many imperiled species, and that safeguards are necessary for others that could be jeopardized.

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ENDANGERED SPECIES ACT

The Listing Process

Species are added to or deleted from the list by Federal "rulemakings." A member of the public may petition for such action, or the listing process may be initiated by the Department of the Interior based on available knowledge of the species' biological status, as modified by existing or potential threats. The proposed listing, delisting, or reclassification is published in the *Federal Register*, and the public is given at least 60 days in which to comment. State governors are allowed 90 days, in the case of "resident" species. A public hearing may also be requested within 45 days after the *Federal Register* publication.

Following review of comments and evaluation of the best available biological data, a final rulemaking is then formulated by the Director of the Fish and Wildlife Service. The rulemaking will generally become official 30 days after publication of the final "determination." This process is also followed for the designation of Critical Habitat for Endangered and Threatened species. Notices of review, proposals, and final rulemakings, plus periodically updated lists of protected species, are published in the *Federal Register*.

Prohibited Activities

The act and the Convention prohibit certain activities involving protected species unless an exception applies or a permit is granted.

The Endangered Species Act places a number of restrictions on activities that can be conducted with protected species. These prohibitions include import, export, taking (except plants); if illegally taken, possession, transporting, carrying, etc.; delivery, receipt, transportation, etc., in interstate or foreign commerce in the course of a commercial activity; and sale or offer for sale in interstate or foreign commerce.

These prohibitions apply to live or dead species; to their parts or products; to all progeny of animals born on or after December 28, 1973 (effective date of the act), and to animals held at that time for sale or barter.

There is no Federal prohibition under the Endangered Species Act against the taking of Endangered or Threatened plants. However, the taking of plants is sometimes regulated by local, State, or Federal agencies under other legislation. Also, Federal responsibilities under section 7 of the act apply if taking of individual Endangered or Threatened plants would jeopardize their continued existence. Seeds of cultivated Threatened plants are exempt from regulation provided that a statement of origin accompanies them during the course of any activity otherwise subject to regulation.

The act does not affect interstate commerce, which is under the jurisdiction of the individual States.

Bona fide gifts and standard breeding loans in interstate commerce are not considered commercial activities and are permitted. Also, Endangered species may be offered for sale, but the advertisement must include a notice that the sale is contingent upon the buyer (or seller of cultivated plants) receiving a valid permit from the Fish and Wildlife Service. One does not need a Federal Endangered species permit to possess legally acquired protected species.

Exceptions to the Rules

- A "grandfather clause" exempts listed animals held prior to enactment of the law (pre-December 28, 1973) if kept in a controlled environment for non-commercial purposes.
- Alaskan natives are allowed to use listed species for subsistence and handicraft purposes.
- Seeds of cultivated Threatened plants are exempt if their origin can be verified.
- Listed animals may be taken in defense of human life.
- Taking of a sick, injured, or dead listed animal is permitted by qualified Federal or State employees.

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dized by a high demand in export-import markets. The Convention established three appendixes, or categories, of species to provide for appropriate and differing degrees of control:

- **Appendix I**—Species which are threatened with extinction and are or may be affected by trade. These species are in need of particularly strict regulation to prevent their future endangerment.

- **Appendix II**—Species which, although not now necessarily threatened with extinction, may become so unless their trade is regulated and monitored.

- **Appendix III**—Species may be placed on this Appendix by any individual Convention nation as being subject to conservation regulation within its jurisdiction, to gain the cooperation of other countries in reinforcing its conservation measures. Any nation may list a species native to its country on this Appendix without approval of the other parties to the Convention.

Listing of Species

The species listed under Appendixes I and II may be from any country in the world and are not limited to the treaty nations. Species are added to or removed from these two appendixes by international agreement.

The formal procedure in the U.S. for public input to proposed amendments to the appendixes has not yet been fully established. However, a process similar to the "rulemaking" procedure for listing species under the Endangered Species Act is now contemplated. In the meantime, U.S. proposals for amendment of the appendixes will be published in the *Federal Register*, and the public will be allowed to comment before any amendments are officially requested by the U.S. management authority. The U.S. position would then be forwarded for approval of the party nations, either by postal procedure or by majority vote at a formal conference.

Appendix I Species Permits

The Convention's most stringent controls are directed at regulating activities involving species listed in Appendix I. All shipments of such species, their parts and derivatives (including manufactured products), require two permits—one from the importing country (obtained first), and another from the exporting country.

Before a permit can be granted for import of an Appendix I species into the United States, the Endangered Species Scientific Authority must find and so advise the U.S. management authority that the purposes of importation will not be detrimental to the survival of the species in the wild. ESSA will generally approve the import of Appendix I animals and plants if for essential scientific research (not detrimental to the species) or for purposes that would enhance the propagation or survival of the species.

ESSA must also find that the recipient of a living Appendix I specimen is suitably equipped to house and care for the specimen.

The scientific authority of the exporting country must also find that the proposed transaction will not be detrimental to the survival of an Appendix I species before issuing an export permit.

Permits for Appendix I species may not be issued for purposes which are primarily commercial.

Appendix II Species Permits

The Convention's controls serve to monitor the volume of traffic in these less seriously threatened species. Export permits must be issued from the country of origin for Appendix II specimens, and may be granted for any purpose if the scientific authority advises that the import will not be detrimental to the survival of the species.

As authorized by the Convention, ESSA will monitor both the export permits and the actual export of Appendix II

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- Taking of listed species by State employees operating pursuant to a State cooperative agreement with the Service is allowable for acceptable purposes.

Permit Specifications

The Endangered Species Act recognizes a limited number of legitimate purposes for obtaining permits that grant access to protected animals and plants. Under the act, the intended recipient (except in the case of cultivated plants) must submit the application, which must be for one of the following purposes:

- *Endangered Species*: Permits may be issued for scientific research and for enhancing the propagation or survival of the species. Techniques such as relocation of surplus stock, conservation exhibition, and euthanasia are acceptable for any Endangered animals already in captivity. Economic hardship permits may also be granted, but are limited to one year from the time of a notice of review or proposed listing of the species.

- *Threatened Species*: Permits may be issued for scientific research purposes; enhancing the propagation or survival of a species; zoological, horticultural, or botanical exhibition, and educational purposes; under special rules for individual species; and for exotic wildlife designated as Captive, Self-Sustaining Populations (CSSP's).

The regulations allow for taking of Endangered or Threatened species by designated employees of a State which has entered into a cooperative agreement with the Service. Such a State employee may take an Endangered species for certain acceptable conservation purposes, except under specified circumstances that would prove detrimental to the specimen's survival, for which a permit is required. Except under special rules published for the management of individual Threatened species, a State agency acting under the terms of a cooperative agreement may take a Threatened species *without a permit* to carry out scientific research or conservation programs.

The regulations also recognize that some species of animals, listed as Endangered in the wild outside of the U.S., are being successfully bred in captivity in this country. These CSSP's have been reclassified as Threatened and multiple transaction permits may be issued for their trade in interstate commerce. Permits may be issued for *any* purpose that would not be detrimental to the survival of a CSSP species, in accordance with permit provisions for Threatened species.

PERMIT APPLICATION REVIEW PROCESS

Prohibited activities under the act and the Convention may be conducted without a permit if an exception applies. However, the exceptions are exclusive to each law and cannot be used to avoid a prohibition of a different law. When a species is covered by more than one law, the requirements of each law must be met.

All Endangered species and Convention permit and certificate applications are received and initially reviewed by the Federal Wildlife Permit Office.

Notice of receipt of permit applications for all species listed solely under the act will be published in the *Federal Register* for public comment. The applications are subsequently reviewed by the Office of Endangered Species, and undergo technical review by the Division of Law Enforcement. All comments and recommendations are evaluated before a determination is made on issuance of the permit by the Federal Wildlife Permit Office.

Convention permit applications (not certificates) are reviewed by the Endangered Species Scientific Authority. Based on ESSA's findings and other factors, approval must be granted by the management authority before permit issuance. Acting on the advice of the Service's Division of

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species from the United States. As mandated under the Convention, the volume of trade in these specimens may be limited by the scientific authority "in order to maintain that species throughout its range at a level consistent with its role in the ecosystems in which it occurs and well above the level at which that species might become eligible for inclusion in Appendix I."

For Appendix I or II species taken from the high seas, an import permit must be issued by the country of destination.

Appendix III Species Permits

International shipment of Appendix III species requires either an export or reexport certificate from the country that listed the species, or a certificate of origin from any other country.

Appendix Permits: Summary

To summarize, the U.S. issues import permits only for Appendix I species and for specimens taken from the high seas. It issues export permits only for native species leaving this country. Export permits to bring foreign species into this country must be obtained from proper officials in the country of origin.

Convention Full Exceptions

Full exceptions are allowed Convention species in the following categories:

- Personal or household effects, accompanied by appropriate documentation.
- Transshipment through the United States.

Convention Partial Exceptions

Certificates, instead of permits, must accompany shipments of the following "exceptions" and must be obtained from the country of origin or propagation:

- Pre-Convention specimens (acquired prior to dates listed in Appendixes I, II, or III).
- Animals bred in captivity or artificially propagated plants.
- Exchanges between scientists or scientific institutions of museum or herbarium specimens (issued by the scientist's home country for the specimens already in a collection).
- Reexport of a specimen that was legally imported.

To increase its effectiveness, the Convention requires documentation equivalent to a permit or certificate from non-party countries. An example of acceptable foreign documentation is available from the Federal Wildlife Permit Office.

Law Enforcement, the Department of Agriculture and other appropriate agencies, the Federal Wildlife Permit Office also reviews and issues Convention certificates, as appropriate.

Designated Ports

The regulations require that all animals (except marine mammals) imported into the U.S. enter through eight designated ports for inspection by Fish and Wildlife Service law enforcement officers. Convention exports must also exit through these ports: New York City, Miami, Chicago, San Francisco, Los Angeles, New Orleans, Seattle, and Honolulu. Plants may also be imported and exported through ports designated by the U.S. Department of Agriculture.

Compliance With Other Laws

Other U.S., State, local, and foreign laws may also apply to species listed under the act and/or the Convention. It is the responsibility of the individual to learn about and comply with all applicable laws.

More specific information on the provisions of these laws, as well as permit applications and lists of protected species, may be obtained from the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (telephone: 202-634-1496).

Rulemaking Actions—September 1977

FINAL RULING

Five Southeastern Fishes

In a final rulemaking issued by the Service, five species of fishes native to the southeastern United States have been listed as Threatened and their individual ranges have been designated as Critical Habitats (F.R. 9/9/77). The ruling takes effect October 11, 1977.

The five species are the Alabama cavefish (*Speoplatyrhinus poulsoni*), slender chub (*Hybopsis cahni*), spotfin chub (*Hybopsis monacha*), slackwater darter (*Etheostoma boschungii*), and yellowfin madtom (*Noturus flavipinnis*).

The Service believes such protection is needed because the fishes' various habitats are threatened by stream channelization and other alterations, as well as siltation, chemical spillage (including fly ash and sulfuric acid), sewage discharge, and coal mining wastes. In the case of the Alabama cavefish, found only in one cave in Lauderdale County, Alabama, the chief threat is groundwater pesticide pollution attributable to local farming activities.

Background

The final rulemaking is basically the same as that proposed in the *Federal Register* on January 12, 1977.

In response to the proposal, the



Photo by Bob Jenkins. Virginia Commonwealth University

Spotfin chub, a pollution victim listed as Threatened

Service received comments from three Federal agencies (the U.S. Forest Service, the U.S. Soil Conservation Service, and the Tennessee Valley Authority), four States (Alabama, North Carolina, Tennessee, and Virginia), two private organizations (the American Society of Ichthyologists and Herpetologists and the Sierra Club), and two professional ichthyologists.

Most of the comments either supported the proposal or offered no objections, while some made specific suggestions, especially concerning the particular Critical Habitat delineations.

Based on these recommendations and

the additional information received, the Service decided to somewhat revise its originally proposed Critical Habitat designation for the slackwater darter, principally by reducing the area in the Cypress Creek system and eliminating the Flint River area until more specific data on the fish's needs are available.

In making its final ruling, the Service also announced that it would review the status of each of the five fishes to determine whether or not they should be proposed for inclusion in the appropriate appendixes to the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

PROPOSED RULINGS

Revisions Proposed in Regulations Affecting Threatened Species

Acting to remove a potentially serious loophole, the Service has issued a proposed rulemaking to revise certain regulations relating to Threatened species; it also has issued an interim emergency ruling that puts these revised regulations into effect for 120 days (F.R. 9/16/77).

The loophole occurred as a result of a May 11, 1976, amendment to incorporate the State Cooperative Agreement Program into the Service's existing regulations for Endangered and Threatened species.

It was the Service's initial intention to make sure that, with one major exception, the prohibitions and provisions under a cooperative agreement would apply to both Endangered and Threatened species. The exception was that certain specific restrictions on the taking of Endangered species by qualified State employees did not apply to the

taking of Threatened species [§ 17.21(c)(5)].

The actual language of the amendment, however, inadvertently excluded from applicability to Threatened species not only the subsection dealing with the restrictions but also three other major subsections.

These other subsections set forth the prohibitions dealing with the possession of illegally taken Endangered species, as well as the commercial transportation or sale or offer for sale in interstate or foreign commerce of Endangered species.

Recognizing that these prohibitions also are essential for the conservation of Threatened species, the Service believed that the amendment omission represented a significant risk to the well-being of Threatened species.

Accordingly, the Service determined it was necessary to issue an emergency

rulemaking effectively reinstating the three omitted subsections. This ruling will remain operative from September 16, 1977, until January 14, 1978.

The Service intends to proceed during this period with the regular rulemaking process as it relates to the proposal, which is substantially the same as the emergency ruling. In the meantime, the Service invites all interested parties to submit written comments on the proposed rulemaking. All comments are due by November 15, 1977.

Technically, as applied to the Code of Federal Regulations, the proposal relates to 50 CFR Part 17. The omitted subsections are § 17.21 (d), (e), and (f). Accordingly, the Service proposes to amend § 17.31(a) to read as follows:

§ 17.31 Prohibitions

(a) Except as provided in Subpart A of this Part, all of the provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(c)(5.)

Little Kern Golden Trout

The Service has issued a proposed rulemaking to add the Little Kern golden trout (*Salmo aguabonita whitei*) to the Threatened list and to designate the fish's range in Tulare County, California, as Critical Habitat (F.R. 9/1/77).

The trout is known to occur only in the Little Kern river system. Although the water quality of these streams is generally good at present, forestry management plans now under consideration could result in extensive logging in the drainage basin. It is possible that such activities would increase the temperature of the water and the amount of siltation, thereby seriously threatening the survival of the Little Kern golden trout.

Hybridization represents the most serious threat to this subspecies. Since rainbow trout were introduced in the river system in the 1930's, there has been considerable interbreeding among the two trout. As a result, pure populations of the Little Kern golden trout now exist only in headwater streams that have either not been stocked with rainbow trout or have waterfalls that form a natural barrier to upstream migration of the introduced fish.

In its proposal, the Service recommends as Critical Habitat for the native trout the main channel of the Little Kern River and all streams tributary to the Little Kern above the junction of the Little Kern and the Kern rivers.

Comments on this proposed rulemaking should be submitted to the Service by December 1, 1977.

Critical Habitat Listings Corrected and Republished

The Service has issued a final rulemaking (F.R. 9/22/77) to correct errors that inadvertently appeared in the Critical Habitat listings for six species and subspecies published in the August 11, 1977, issue of the *Federal Register*.

The six species and subspecies are the Florida Everglade kite (*Rostrhamus sociabilis plumbeus*), American peregrine falcon (*Falco peregrinus anatum*), palila (*Psittirostra bailleui*), yellow-shouldered blackbird (*Agelaius xanthomus*), dusky seaside sparrow (*Ammospiza maritima nigrescens*), and Cape Sable sparrow (*Ammospiza maritima mirabilis*).

In addition, the ruling includes a map of the Critical Habitat of the St. Croix ground lizard, which was accidentally omitted from the published ruling on August 11.



U.S. Fish and Wildlife Service photo

Mine detector-like device is used to stun fish and collect Arizona trout in habitat restoration project

Arizona Trout Habitat On Ord Creek Restored

Some Threatened Arizona trout (*Salmo apache*) have gained a new lease on their habitat along a 2.5-mile stretch of Ord Creek on the Fort Apache Indian Reservation in Arizona.

During the first week of September, the habitat area was cleared of competing species of brook trout (*Salvelinus fontinalis*), brown trout (*Salmo trutta*), and other fish crowding out the Arizona, or "Apache," trout for food and spawning space. The restoration was performed with the aid of a fish barrier erected across the creek. About 100 Arizona trout, most of them older fish, were captured by electrofishing and held in tanks.

Then the section of creek was cleared by applying antimycin (a toxicant that is essentially harmless to nonaquatic life forms). Later, after the toxicant had disappeared, the Arizona trout were returned to the stream.

The restoration project was undertaken by the Fish and Wildlife Service, in cooperation with the Bureau of Indian Affairs, Fort Apache Tribe, Arizona State University, and the U.S. Forest Service.

Once ranging over the upper Salt and Little Colorado rivers, and possibly the upper San Francisco river system, the Arizona trout had been forced back by the 1950's to a few headwater streams above 8,000 feet by competition from other species. It had also been extensively hybridized with introduced rainbow trout (*Salmo gairdneri*).

Initially listed as Endangered in 1973, the fish was reclassified to the Threatened status in 1975 as the result of intensive management efforts by the Service, Bureau of Indian Affairs, and Arizona Game and Fish Department. It is hoped that restoration projects will so improve this species' status that fishermen may soon look forward to catching this colorful trout.



U.S. Fish and Wildlife Service photo

A live Arizona trout about to be returned to cleared creek

Pending Rulemakings

The Service expects to issue rulemakings and notices of review on the subjects listed below during the next 90 days. The status or action being considered for each final and proposed rulemaking is given in parentheses.

The decision on each final rulemaking will depend upon completion of the analysis of comments received and/or new data made available, with the understanding that such analysis may result in modification of the content or timing of the original proposal, or the rendering of a negative decision.

Pending Final Rulemakings

- Bald eagle (modification of status in Lower 48 States)
- Leopard darter (T, C.H.)*
- 27 snails (E, T)
- 6 butterflies (C.H.)
- Contra Costa wallflower and Antioch Dunes evening primrose (C.H.)
- 13 plants (E, T)
- Grizzly bear (C.H.)
- Gray wolf (reclassification to T in Minn.; C.H.)
- Florida pine barrens treefrog (E, C.H.)
- Golden coqui (T, C.H.)
- 15 crustaceans (E, T)
- Whooping crane (C.H.)
- Black toad (T, C.H.)
- Atlantic salt marsh snake (T)

Pending Proposed Rulemakings

- Ozark big-eared bat (E)
- Virginia big-eared bat (E)
- African elephant (S.O.A. to Asian elephant)
- 11 beetles (E, T)
- Puerto Rican whip-poor-will (C.H.)
- Laysan duck (C.H.)
- 2 harvestmen (E, T)

BOX SCORE OF SPECIES LISTINGS

Category	Number of Endangered Species			Number of Threatened Species		
	U.S.	Foreign	Total	U.S.	Foreign	Total
Mammals	36	227	263	2	17	19
Birds	68	144	212	2		2
Reptiles	10	46	56	2		2
Amphibians	4	9	13	1		1
Fishes	30	10	40	9		9
Snails		1	1			
Clams	23	2	25			
Crustaceans						
Insects	6		6	2		2
Plants	4		4			
Total	181	439	620	18	17	35

Number of species currently proposed: 101 animals
1867 plants (approx.)

Number of Critical Habitats proposed: 34

Number of Critical Habitats listed: 20

Number of Recovery Teams appointed: 59

Number of Recovery Plans approved: 9

Number of Cooperative Agreements signed with States: 19

September 30, 1977

- 3 mussels (C.H.)
- Rocky Mountain peregrine falcon population (C.H.)
- 29 Southeastern U.S. fishes (E, T)
- Humpback chub (C.H.)
- Colorado squawfish (C.H.)
- Woundfin (C.H.)
- Virgin River chub (E, C.H.)

Pending Notices of Review

- African elephant
- Mexican duck
- 10 U.S. reptiles

*Abbreviations: E = Endangered, T = Threatened, C.H. = Critical Habitat, S.O.A. = similarity of appearance

We Still Need Your Help

Your response to our call for information and suggestions has been most encouraging and useful, and it has played an important role in making the BULLETIN a success. Consequently, we invite you to continue sending us reports on your latest research and management activities (accompanying illustrations are also most welcome), as well as your ideas and comments about specific topics and the BULLETIN as a whole.



ENDANGERED SPECIES TECHNICAL BULLETIN

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